

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

**Case No. 09-CR-257
14-C-463**

RAYMOND LAWRENCE,

Movant.

DECISION AND ORDER

This matter comes before the Court for an initial review of Raymond Lawrence’s motion to correct his sentence under 28 U.S.C. § 2255. Lawrence concedes that his motion is untimely under § 2255(f)(1) (limitation period runs from the date the conviction becomes final). Instead, he argues that his motion is timely under § 2255(f)(3), which provides that the limitation period runs from “the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review”). Lawrence cites two recent cases – *Alleyne v. United States*, 133 S. Ct. 2151 (2013) and *Missouri v. Frye*, 132 S. Ct. 1399 (2012) – but *Frye* doesn’t announce a new right, *Hare v. United States*, 688 F.3d 878 (7th Cir. 2012), and courts have declined to apply *Alleyne* retroactively. See, e.g., *Schoultz v. United States*, No. 8:13-cv-03140-GRA, 2014 WL 37244, at *2 (D.S.C. Jan. 6, 2014) (“while § 2255(f)(3) does not require the initial retroactivity question be decided in the

affirmative *only* by the Supreme Court, no lower court has held that the *Alleyne* ruling applies retroactively”) (emphasis in original).

Therefore, Lawrence’s motion must be **DISMISSED** as untimely. The Court will not issue a certificate of appealability. Rule 11(a), Rules Governing Section 2255 Proceedings. “To receive certification under [28 U.S.C.] § 2253(c), the prisoner must show that reasonable jurists would find the district court’s assessment of the constitutional claim and any antecedent procedural rulings debatable or wrong.” *Lavin v. Rednour*, 641 F.3d 830, 832 (7th Cir. 2011).

Dated at Milwaukee, Wisconsin, this 28th day of April, 2014.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge